

**New Shoreham Town Council Meeting
Town Hall, Old Town Road, Block Island
Wednesday, April 17, 2013
7:00 p.m.**

Present: First Warden Kimberley H. Gaffett, Second Warden Kenneth C. Lacoste, Town Councilor Sean McGarry, Town Councilor Norris Pike, and Town Councilor Christopher Warfel. Also present were Town Manager Nancy O. Dodge and Attorney Katherine Merolla. Town Clerk Fiona Fitzpatrick was present to take the minutes of the meeting.

First Warden Kimberley H. Gaffett called the meeting to order at 7:00 p.m.

Warden's Report DEM parking permits for use in Pt. Judith will be for sale on the Island Monday. The Division PUC will be holding a hearing in Warwick in April 19 for Interstate Navigation's fast ferry application. DEM will be taking comment at a Public Hearing for Deepwater Wind at Town Hall on May 8 from 5:00 to 8:00 pm. The Army Corps of Engineers will also attend and will be able to answer questions about their process. Another hearing will be held in Narragansett on April 24 from 6:30 – 10:00 pm. The Committee for the Great Salt Pond's annual beach cleanup will be May 11, 2013.

Public Input:

There was no input from the public.

1. Receive and act on The Surf Hotel request re: easement to allow area for access for persons with disabilities

Mr. Warfel recused. Surf Hotel owner Lorraine Cyr and her architect Arlene Tunney were present. The Surf Hotel is requesting an easement over state property to accommodate a ramp for persons with disabilities. The easement would be for approximately 23 feet along the edge of the Surf's front porch, from the turn of the sidewalk over a portion of the memorial garden. Town Manager Dodge explained the item was on the agenda for Council consideration because is the state's practice to issue alteration permits with Town input. The state will be issuing the permits and reviewing the plans for compliance. Ms. Tunney described the 18-foot wooden ramp with pipe rails plus 5 x5 turning platform as temporary construction. She provided drawings, attached to these minutes.

Mr. Pike spoke in support of the request to help the business and bring the historic building toward compliance with ADA regulations. Mr. Lacoste voiced concerns that small children could fall through the pipe rail and asked to mitigate the hazard. Building Official Marc Tillson suggested a code-compliant guardrail.

Mr. McGarry asked whether the easement would be permanent. He said repairing erosion damage to the corner would be quite expensive and he said the state pay for the repairs and should allocate any money received for the easement to repairs of the corner. He did not want the easement to impede Town work on the adjacent property. Michael Ballard was present for the Historic District Commission and said the HDC reviewed the plans and recommended the pipe rail as least visually intrusive.

Councilor Pike moved to approve in concept the easement for the handicap ramp for the Surf Hotel as presented with the addition of a code-compliant railing, and to waive any fees that might be associated with granting the easement.

Ayes: 4 (Gaffett, Lacoste, McGarry, Pike) Nays: 0 Recuse: 1 (Warfel)

2. Receive and act on NSPD monthly report: March 2013

Chief Carlone was present. Mr. Warfel asked about the high incidents of alarms. Chief Carlone said the acknowledged alarms were primarily "trouble" commercial fire alarms that required no response beyond the dispatchers. The Town will be asking businesses for updated contact information.

Ms. Gaffett moved to accept, seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

3. Receive and act on Incident reports re: deposition of solid waste & littering, allegedly by Ballards Inn, on coastal feature of BI Land Trust land (Water St.)

Manager Sharon Cattera was present for Ballard's Inn. The First Warden said an incident report was filed and the waste has been cleaned up. She said the item was on the agenda for public information and discussion. Volunteers on Block Island have worked very hard to clean, protect and preserve the beaches and dunes and it is an affront and extremely regrettable that debris and garbage was buried in a coastal feature. Councilor members agreed. Marc Tillson was present and agreed with the First Warden that the community has done a lot of work to protect the beaches and dunes and the incident was very regrettable.

Police Chief Vincent Carlone was present. He said there is an ongoing investigation. He said there were two debris fields on Land Trust property. One pile of debris was moved from Ballard's beach on April 2 with a tractor and deposited on Land Trust property. He has not determined how long ago the second pile of trash and debris was buried, nor who buried it. If he knew, they would be charged with a criminal offence.

4. Discussion with DEM Assistant Director for Division of Fish & Wildlife, Catherine Sparks

Assistant Director Sparks and several members of the Deer Task Force were present, including Becky Ballard and George Mellor.

• report on 2012/2013 general Block Island Deer Hunting season

Assistant Director Sparks said overall deer 198 were reported taken by hunting on Block Island during the 2012/2013 hunting season. Twenty were taken at Black Rock/Rodman's Hollow during the managed hunt.

An aerial survey conducted January 28, 2013 by DEM Wildlife Biologist Brian Tefft revealed an actual observed density of 71 deer per square mile. He applied a standard conversion factor for an estimate of about 100 (or possibly a few more) deer per square mile. Ms. Sparks said the population increase from 2011 (roughly 50 per square mile) may be due to last year's mild winter.

• report on special 2013 deer hunt on Plat 12 lot 13 (Black Rock)

Assistant Director Sparks although Black Rock/Rodman's Hollow hunt was diminished by bad weather the DEM considers it a success. She would like to continue the hunt. Permits for 24 hunters were issued and 12 hunters reported. She suspected some hunters did not come because of weather conditions. The DEM law enforcement goal of two officers patrolling together on eight visits was not met due to weather conditions; teams of two officers were on Island four times during the hunt, once each week. If the hunt is continued next year the DEM will try to have 50% coverage.

During the question period Chris Blane said one of the DEM visits was on a Monday holiday and the boundaries of the hunting area were not marked. Mr. Blane also suggested a list of "alternate hunters" be kept; Ms. Sparks said she will consider alternate hunters after the hunt has run a few years.

• preliminary discussion re: 2013/2014 deer hunting season (general dates, Deer Task Force proposed special managed hunt, potential 2014 hunt on P12, L13 (Black Rock/Rodman's Hollow area))

• DEM property management issues of mutual interest

Assistant Director Sparks said she inherited the practice of allowing the Town to choose hunting dates, latitude accorded no other town and not supported by state law. She said she would continue to work with the Town to schedule hunting dates.

Ms. Sparks said one of the DEM's core missions is to provide opportunities for hunting and fishing. Although DEM cannot support an extirpation plan, she wants to work with the Town and the Deer Task Force to reduce deer on the Island. The DEM is aware that there was a time when there were no deer on Block Island. She said her staff is preparing a written response to the Deer Task Force's "Modified Skidaway Plan." The DEM will offer to assist with enhancing hunter opportunity and developing a plan that the DEM can support to reduce the deer population. As a start she suggested the DEM would support three weekends of hunting on

private lands during the archery-only season in October and early November and she challenged the community to find more public lands to add to a managed hunt. Those present explained October is prime tourist season and said it would be more palatable to add weekend hunting at the end of the season.

There will be a public hearing on the DEM's hunting regulations for 2013-2014 on June 4, 2013 on the mainland. Ms. Sparks said she and her biologists would like to start early next month to work with the community to come up with an expanded hunting strategy. Ms. Sparks offered to add a regulation workshop on Block Island in the future as part of the administrative process. Questions and answer followed.

Deer Damage Permits were discussed. They are issued by the Division of Agriculture and associated with farming and crops; deer are to be taken on the property during hunting season as well as during the depredation period. Jacklighting is allowed under some circumstances with deer damage permits.

Lyme disease was discussed.

Mr. Pike said Block Island does not want to manage the deer herd; we want to eliminate the deer. He said we are too small to provide a positive recreational experience for hunters. Others agreed that the deer and Lyme disease are a public health problem that DEM cannot solve because they focus on providing hunting opportunities. Town Manager Dodge said because of the Town's changed circumstances the Town will consider appealing to the Department of Health and the General Assembly for recourse.

A letter received from Amy Kravitz was entered into the record.

• Experimental Fish Stocking

The Nature Conservancy Bioreserve Manager Chris Littlefield was present to report on the concept of stocking river herring (alewives) in Sachem, Mill Pond or Meadow Hill Swamp Pond. They live in the ocean and spawn in fresh water and are important because they provide food for mammals, birds and other fish. Conservation agencies have teamed with state and federal agencies along the east coast in an effort to bring back the river herring. He said archeologist Kevin McBride confirmed alewives were native to Block Island. Mr. Littlefield said alewives are not good climbers and they do not travel through tunnels. They need fish ladders to get into ponds that have been dammed. Mr. Lacoste said we should take an object lesson from the deer and be sure the reintroduction will not cause damage. A brief discussion ensued. The item was informational; no action was required by the Town Council.

Assistant Director Sparks thanked the Town Council for the opportunity to meet and said she learned a lot and looked forward to coming out again.

5. Receive and act on TNS Planning Board letter re: Town Ordinances and commercial use of exterior space

Margaret Comings of the Old Harbor Task Force and Sven Rissom of the Planning Board came to discuss a memorandum regarding commercial use of exterior space associated with a retail store: sidewalk displays. Discussion ensued. Publicly owned sidewalks may be regulated by ordinance, there is a law on the books that prohibits blocking sidewalks. Privately owned sidewalks would be regulated by zoning like any other private land.

The Council referred the matter to Attorney Packer.

6. Set Public Hearing dates to consider amendments to New Shoreham General Ordinances:

- Chapter 9, Section 140 "Golden Shellfish Licenses"
- Chapter 9, Section 137 and 140 "Golden Shellfish Licenses"
- Chapter 17, Section 1 "Excise Tax Reduction"

Ms. Gaffett moved, seconded by Mr. Lacoste, to set public hearings at 7:00 on May 15, 2013 for the three ordinance amendments.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

7. Receive and act on Building Official memo re: enforcement of TNS Zoning Ordinance and Building Codes on Plat 5 Lot 81 (Dulac), and Plat 18 Lot 43 (Roll)

Building Official Marc Tillson was present and reviewed the process he used to issue the first and second notices of violation, and the response from the homeowners. Dulac installed a shed too close to the property boundary and without a building permit. Roll built an addition too close to a property boundary and without a building permit. Both homeowners are out of compliance with the state building code and local zoning ordinances. Mr. Tillson asked the Council to take legal action to compel compliance. Discussion ensued. Mr. Pike will work with the homeowners to see whether he can help them resolve their situations.

Mr. McGarry moved to table the item to May 1, seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

8. Receive and act on requests for Town of New Shoreham sponsorship of non-profit fund raisers:

- Block Island Health Services, Inc. – Fun Run

The fun run has had Town sponsorship in past years but a few questions were raised. In the absence of anyone representing BIHS, the Council tabled the item for more information.

- Mary D Fund – Mary D Ball

Mr. McGarry recused as applicant and Chairman of the event.

Ms. Gaffett moved that the Town sponsor to the Mary D Ball pursuant to the terms in their letter, and noting Town sponsorship would allow the entertainment to run beyond 5:00 p.m. The motion was seconded by Mr. Warfel.

Ayes: 4 (Gaffett, Lacoste, Pike, Warfel)

Nays: 0

Recuse: 1 (McGarry)

9. Boards, Committees, and Commissions:

- announce Board, Committee and Commission openings

First Warden Gaffett announced terms on the Water and Sewer Commission expire in May annually, and one member and two alternates are up for renewal.

10. Receive and act on Town Solicitor litigation reports:

- Town of New Shoreham v. Pinney (resolution)

Attorney Katherine Merolla said the Pinney matter has been resolved by Mr. Pinney paying the \$1,050 fine and the case has been dismissed.

(The following items may be discussed or acted upon in closed session pursuant to Rhode Island General Laws §42-46-5(a)(1) for sessions pertaining to litigation)

- Waste Haulers BI, LLC vs. Block Island Recycling Management, Inc, et als (WC 11-729)
- “Transfer Station Litigation;”
- TNS vs Filippi et al (WCSC2004-0115) “Old Harbor Triangle”
- Baricevac vs TNS (trip and fall case)

Mr. McGarry recused for the discussion of Waste Haulers BI, LLC vs. Block Island Recycling Management, Inc, et als (WC 11-729).

At 10:20 Ms. Gaffett moved into enter closed session pursuant to Rhode Island General Laws §42-46-5(a)(1) for sessions pertaining to litigation, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

At 11:10 Mr. Lacoste moved to adjourn the closed session meeting and seal the minutes, seconded by Mr. McGarry.

Second Warden Lacoste noted one motion was made in closed session with regard to Baricevac vs TNS: Mr. Warfel moved to take no action, seconded by Mr. Lacoste, the motion was voted approved unanimously (Gaffett, Lacoste, McGarry, Pike, Warfel).

At 11:12, a motion to adjourn was made by Mr. Lacoste and seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

Minutes approved June 19, 2013

Fiona Fitzpatrick,
Town Clerk